

CHAPTER 47 Emergency Petitions for Administrative Orders Administrative Rule 17	CONTACT: Richard T. Payne richard.payne@courts.IN.gov Direct: 317-234-5398 30 S. Meridian St., Suite 500 Indianapolis, IN 46204 Fax: 317-233-6586
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Indiana Administrative Rule 17

[Administrative Rule 17](#) was drafted by the Judicial Administration Committee in 2007 to codify the Supreme Court's inherent power to oversee the administration of trial courts in the event of a disaster or other unanticipated work interruption. Information concerning creation and implementation of Continuity of Operations Planning (COOP) is available at <http://www.in.gov/judiciary/coop>.

A key concern when there is a disruption of normal court operations is the tolling of time limits and statutes of limitations. Administrative Rule 17 allows a local trial court to petition the Supreme Court to "stop the clock" on "time limits currently imposed for speedy trials in criminal and juvenile proceedings, public health, mental health, appellate, and all other civil and criminal matters."

PLEASE NOTE: Staff attorneys with the Division of State Court Administration are available to assist in the process of petitioning the Supreme Court for an Administrative Rule 17 Order. Courts should contact: Dave Remondini, Chief Executive Director of State Court Administration by email at dave.remondini@courts.IN.gov or by telephone at 317-232-2542 or Jeffrey Wiese, Director, Trial Court Management by email at Jeffrey.wiese@courts.IN.gov or by telephone at 317-232-2542.

A petition template and examples of previously entered Indiana Supreme Court orders under Administrative Rule 17 may be found at <http://www.in.gov/judiciary/admin/3207.htm>.

Weather Related Court Closures

Local weather emergencies may also prompt office closures by judicial officers and county clerks that interfere with normal hours of operation. While these inclement conditions require action to protect the health and safety of court staff and the public, a variety of legal requirements should be considered while contemplating a restriction of office hours. In response to requests from several courts, the Division is providing this information to guide judicial officers when faced with severe weather situations.

First, Article 1, Section 12 of the Indiana Constitution provides that "all courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law..." To implement this constitutional provision, the Indiana Supreme Court adopted Ind. [Trial Rule 72](#) (TR 72) and required that "trial courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing

and returning process and of making and directing all interlocutory motions, orders, and rules.”

[TR 72\(C\)](#) also provides that the clerk’s office, with the clerk or a deputy in attendance, shall be open during business hours on all days except Saturdays, Sundays, and legal holidays, and that the circuit court judge, by local rule or order, may provide that its clerk’s office shall be open for specified hours on Saturdays or some legal holidays other than those considered to be the “major” holidays: New Year’s Day, Washington’s Birthday, Memorial Day, etc.

However, the vagaries of weather do not take into account legal deadlines regarding the time within which various documents must be filed or actions taken. Weather-related court closures will invariably impact the ability of citizens to file court documents within the time allowed by law, and bring emergency issues before a court.

Prior guidance from the Division has advised that judicial officers may require that the court and the clerk’s office be open at other times than regular business hours. But there is no explicit authority allowing courts to reduce hours of operation during regular business days and hours. The Division has also advised that courts and clerk’s offices may, however, operate with reduced staff or implement procedures to ensure that litigants have access to courts.

In order to meet constitutional, statutory and rule duties, courts, as well as clerks, should establish a procedure *through a local rule* for filing documents and acting upon emergency petitions and pleadings during a period of weather-related or other emergency closure. The procedure may be as simple as a note on the courthouse door advising potential litigants on how to contact a judicial officer or circuit clerk or reminding litigants to post filings by the methods outlined in TR 5(F): certified mail, electronic filing where allowed, use of third party commercial carriers, etc.

Indiana law is clear that a trial court is without authority to extend or enlarge deadlines other than as provided in applicable Rules of Trial Procedure. However, when a rule or statute is silent as to how a time limitation is computed, [TR 6\(A\)](#) applies and will extend the period to the next day if the last day of the period is a Saturday, a Sunday, a state defined legal holiday or a day on which the Clerk’s office is closed during regular business hours. See, *Jenkins v. Yoder*, 163 Ind. App. 377, 324 N.E.2d 520, 1975 Ind. App. LEXIS 1046 (Ind. Ct. App. 1975).

In the event of a weather-related closure, a petition to the Indiana Supreme Court under Ind. Administrative Rule 17 (AR 17) can provide litigants with an extension of legal deadlines that a trial court cannot establish by itself. Although the Supreme Court may act *sua sponte*, a petition by the trial court is normally required. The process of obtaining a Supreme Court order under AR 17 may take a day or two but the resulting order can retroactively alter statutory deadlines and rules of procedure applicable in courts to ensure the orderly and fair administration of justice. Information about AR 17 is available at <http://www.in.gov/judiciary/admin/3207.htm> . Staff of the Division of State Court Administration can help prepare the petition for courts faced with an emergency situation.

Last Modified 12/31/14